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FEDERAL COMMUNICATIONS COMMISSION  
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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of

Truth-in-Billing  
and  
Billing Format

CC Docket No. 98-170

**Petition for Temporary, Limited Waiver**

Roanoke & Botetourt Telephone Company ("Roanoke"),<sup>1</sup> by counsel, hereby seeks temporary, limited waiver of the Truth-in-Billing ("TIB") requirements established by the Federal Communications Commission ("Commission" or "FCC") in its First Report and Order and Further Notice of Proposed Rulemaking in the above-captioned matter.<sup>2</sup> Specifically, Roanoke seeks temporary waiver of the requirements of Sections 64.2401(a)(1) and (2) regarding the name of and separating charges by service provider (the "TIB Separate Provider Requirements") and Section 64.2401(d) regarding disclosure of inquiry contacts (the "TIB Inquiry Contact Requirement")(collectively, the "TIB Requirements").<sup>3</sup> Roanoke seeks this waiver until April 1,

<sup>1</sup> Attachment A contains the declaration of Michael Layman, Senior Vice President of Roanoke & Botetourt Telephone Company. The declaration bears a facsimile signature. The original signed declaration will be filed upon receipt by counsel.

<sup>2</sup> In the Matter of Truth-in-Billing and Billing Format, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 98-170, FCC 99-72, released May 11, 1999, 64 Fed. Reg. 34488 (June 25, 1999)("TIB Order"); Errata, CC Docket No. 98-170, DA 99-2092, released October 6, 1999.

<sup>3</sup> In pertinent part, 47 C.F.R. § 64.2401(a)(1) requires that the name of the service provider "associated with each charge must be clearly identified on the telephone bill" and 47 C.F.R. § 2401(a)(2) states that "[w]here charges for two or more carriers appear on the same telephone bill, the charges must be separated by service provider. . . ." 47 C.F.R. § 64.2401(d) states, in turn, that:

Telephone bills must contain clear and conspicuous disclosure of any information that the

2000.

Roanoke, which is a member of the United States Telecom Association ("USTA"), recognizes that a pending Petition filed by USTA seeks similar relief for USTA member companies.<sup>4</sup> Moreover, Roanoke recognizes that a pending Joint Petition filed by the National Exchange Carrier Association, Inc., the National Telephone Cooperative Association, and the Organization for the Promotion and Advancement of Small Telecommunications Companies, Inc. (collectively the "Associations") also seeks similar relief for their member companies. Accordingly, in the event that action on the USTA Petition and/or the Associations' Petition does not grant the extent of the relief requested herein, Roanoke requests a waiver of the TIB Requirements until April 1, 2000.

For the reasons stated below, the practical problems and existing limitations confronting Roanoke associated with implementing the TIB Requirements make compliance by the November 12, 1999 effective date infeasible.<sup>5</sup> Until the waiver requested expires, however, Roanoke will continue to work diligently on the software billing system changes necessary to comply with the

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customer may need to make inquiries about, or contest charges, on the bill. Common carriers must prominently display on each bill a toll-free number or numbers by which customers may inquire or dispute any charge contained on the bill. A carrier may list a toll-free number for a billing agent, clearinghouse, or other third party, provided that such party possesses sufficient information to answer questions concerning the customer's account and is fully authorized to resolve consumer complaints on the carrier's behalf. Each carrier must make its business address available upon request to consumers through its toll-free number.

<sup>4</sup> See Public Notice, DA 99-1616, released August 13, 1999.

<sup>5</sup> See 64 Fed. Reg. 55163 (Oct. 12, 1999); see also Public Notice, DA 99-2030 (Sept. 30, 1999) and Public Notice, DA 99-1789 (Sept. 2, 1999).

TIB Requirements. Moreover, even after the waiver expires, Roanoke's customer representatives will continue to provide assistance to customers with questions concerning charges for particular services. Accordingly, Roanoke respectfully submits that these actions will ensure that the underlying public interest objectives of the TIB Requirements will be advanced during the time that the requested waiver is in effect.

## **I. Background**

Roanoke provides exchange and exchange access services to approximately 10,924 lines in Virginia. Roanoke is a rural telephone company under the Communications Act of 1934, as amended. Roanoke uses DPI as its billing vendor. Following the release of the TIB Order, Roanoke contacted DPI to discuss activities that would be necessary to ensure Roanoke's TIB compliance. During this time, Roanoke has also been concentrating its efforts on Year 2000 issues. DPI has informed Roanoke that, while its software is capable of processing the necessary information and rendering a toll bill in compliance with the TIB Requirements, it depends upon clearinghouses to make all necessary information available. The clearinghouses, in turn, depend upon their carriers and message providers to submit such information.

The need for the waiver of the TIB Requirements arises from the billing services that Roanoke renders to casual calling and alternate service providers (collectively referred to as "AOS providers"), i.e., carriers other than the presubscribed "1+" carrier of the customer.<sup>6</sup>

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<sup>6</sup> Although Roanoke typically has the authority to issue credits to customers for AOS charges, the AOS providers may, independently, seek payment of those charges from customers. Moreover, Roanoke notes that it is not "fully authorized to resolve consumer complaints on the carrier's behalf." 47 C.F.R. § 64.2401(d). Accordingly, Roanoke requests this waiver of the TIB Inquiry Contact Requirement. Roanoke also notes that, in its experience, customer inquiries regarding AOS provider charges are minimal.

Specifically, DPI, on behalf of Roanoke, receives data from the AOS provider's clearinghouse, which, in turn, are aggregated by DPI in one section of Roanoke' bills. This bill section may identify one or, at times, several different AOS providers based on the customer's decision to make a casual call or to use an alternative service provider in a given billing cycle. The charges that Roanoke receives are sorted by customer, by date and time of that customer's usage, and by AOS provider, and in most instances, the toll bills that Roanoke receives from DPI place an AOS service provider's toll free number on the bill. However, where the records involve a "sub-CIC"<sup>7</sup> of that AOS provider,<sup>8</sup> DPI has informed Roanoke that not all clearinghouses provide the name of such an AOS provider or its toll free number to enable DPI's software to process the information and place it on the bill.

Further, Roanoke is in the process of migrating from DPI to an internal billing system service (i.e., software and support) that will be TIB compliant. Roanoke anticipates the completion and successful testing of its new billing software program by April 1, 2000.

In light of the above, Roanoke requests this waiver until April 1, 2000. A waiver of the TIB Requirements until April 1, 2000 will help to ensure that all TIB efforts required by Roanoke are coordinated efficiently.

## **II. Good Cause Exists for and the Public Interest will be Served by a Grant of this Limited Waiver**

Based on these facts and circumstances, Roanoke respectfully submits that good cause

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<sup>7</sup> A "CIC" is the Carrier Identification Code assigned to a specific carrier. The use of "sub-CICs" allows other providers to share the CIC.

<sup>8</sup> Based on Roanoke's experience, the majority of its customers do not make calls carried by an AOS provider.

exists for a grant of this limited waiver, and that the public interest will be served by such action. As demonstrated herein, Roanoke will not be able to meet the TIB Requirements by November 12, 1999.<sup>9</sup> Moreover, even assuming the receipt of all necessary information from its clearinghouse and processing of the information by its vendor, Roanoke would not be able to successfully test the system by November 12, 1999. Roanoke anticipates, however, that compliance with the TIB Requirements should be possible by April 1, 2000, at the same time that Roanoke implements its new billing software system. Accordingly, for the reasons stated, good cause exists for this waiver.<sup>10</sup>

Roanoke also respectfully submits that the public interest would be served by grant of this request. First, the Commission has recognized the need to balance the implementation of new regulatory directives which affect computerized systems with on-going Year 2000 activities.<sup>11</sup> The system capabilities to be implemented by DPI and Roanoke clearly fall into this Commission-defined category. The Commission's concerns regarding utilization of its Year 2000 Policy

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<sup>9</sup> See n.5, supra.

<sup>10</sup> "The Commission may exercise its discretion to waive a rule where particular facts would make strict compliance inconsistent with the public interest." WAIT Radio v. FCC, 418 F.2d 1153, 1159 (D.C. Cir. 1969). Waiver of a Commission rule is appropriate where (1) the underlying purpose of the rule will not be served, or would be frustrated, by its application in a particular case, and grant of the waiver is otherwise in the public interest, or (2) unique facts or circumstances render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest, and there is no reasonable alternative. Northeast Cellular Telephone Co., L.P. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>11</sup> See In the Matter of Minimizing Regulatory and Information Technology Requirements That Could Adversely Affect Progress Fixing the Year 2000 Date Conversion Problem, Year 2000 Network Stabilization Policy Statement, FCC 99-272, released October 4, 1999 ("Year 2000 Policy Statement") at para. 15.

Statement to "'forestall' or 'roll back' disfavored regulations, or use this policy for purposes of competitive advantage"<sup>12</sup> are not applicable here. Roanoke is working with its billing vendor and its internal billing staff toward TIB compliance and seeks only a limited extension of time that is otherwise consistent with the underlying objectives which justified the Commission-prescribed compliance date of certain other TIB rules. Accordingly, there is no basis to conclude that Roanoke is attempting to "forestall" or "roll back" disfavored regulations. In addition, there is no "competitive advantage" associated with this request. A grant of this waiver does not affect a competitor of Roanoke; rather it allows an interim measure to be implemented that allows continuation of existing billing arrangements for other carriers in a manner consistent with the status of the overall TIB compliance efforts by Roanoke.

Second, the Commission has already determined that the April 1, 2000 date is appropriate for implementing other TIB rules.<sup>13</sup> Accordingly, the ability of DPI and Roanoke to continue to work toward the April 1, 2000 implementation date for all TIB rules would ensure efficiency and continuity in the necessary overall billing system enhancements and capabilities without incurring unnecessary expenditures or jeopardizing Year 2000 compliance issues.

Third, the underlying goal of the TIB Requirements -- the ability of a customer to identify a carrier and make inquiry concerning a charge -- would not be frustrated by a grant of the requested waiver. As is done today, even after the requested waiver expires, Roanoke will continue to provide its local telephone number on the bill in order to allow customers to contact

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<sup>12</sup> Id. at para. 16.

<sup>13</sup> See n.6, supra.

Roanoke about charges. Likewise, when a customer questions an AOS provider charge, Roanoke will, at the customer's option, provide the AOS provider's toll free number or will seek to establish a three-way conference call with the AOS provider (or its billing clearinghouse) in order that the customer may address his/her concern about a charge. Accordingly, the goal of the TIB Requirements will be advanced. Waiver of the TIB Requirements as requested herein will merely maintain the status quo until such time as the billing system modifications are made and successfully tested.

Finally, Roanoke notes that, in the absence of this limited waiver of the TIB Requirements, its ability to bill for isolated customer-originated traffic on behalf of AOS providers would be in jeopardy. Facing the risk of non-compliance with the TIB Requirements, Roanoke may be forced to consider terminating its billing relationship with AOS providers. This, in turn, may increase the cost to AOS providers for their respective billing, thereby inhibiting the continued development of a competitive marketplace for such services.

Even assuming that harm to the public interest is present, that harm does not outweigh the public interest benefits arising from a grant of this request. As indicated, concerns expressed by the customers of Roanoke regarding AOS provider charges have been minimal. Moreover, Roanoke anticipates that its experience will not change during the time that the requested waiver is in place.

### **III. Conclusion**

Because Roanoke is technically incapable of complying with the TIB Requirements by November 12, 1999, a grant of this request until April 1, 2000 should ensure implementation of the TIB Requirements is completed in an efficient manner, while avoiding unnecessary expense

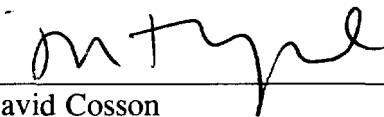
or raising additional Year 2000 compliance issues. At the same time, the consumer goals of the TIB Requirements will not be frustrated by a grant of this request. Rather, such goals will be furthered by Roanoke as it continues to provide customer assistance and responsiveness when questions are received regarding charges from service providers.

Accordingly, in the event that action on the USTA Petition and/or the Associations' Petition does not grant the extent of the relief requested herein, Roanoke requests a waiver of the requirements of 47 C.F.R. §§ 64.2401(a)(1), 64.2401(a)(2) and 64.2401(d) until April 1, 2000.

Respectfully submitted,

**Roanoke & Botetourt Telephone Company**

By



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November 12, 1999



**Declaration of Michael Layman  
Senior Vice President  
Roanoke & Botetourt Telephone Company**

I, Michael Layman, Senior Vice President of Roanoke & Botetourt Telephone Company ("Roanoke"), do hereby declare under penalties of perjury that I have read the foregoing "Petition for Temporary, Limited Waiver" and the information contained therein regarding Roanoke is true and accurate to the best of my knowledge, information, and belief.

Date 11-12-99

  
Michael Layman  
Senior Vice President

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## **CERTIFICATE OF SERVICE**

I, Shelley Davis, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, hereby certify that a copy of the foregoing "Petition for Temporary, Limited Waiver" of Roanoke & Botetourt Telephone Company was served on this 12th day of November, 1999 by hand delivery to the following parties:

  
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